

STATE OF WASHINGTON  
KING COUNTY SUPERIOR COURT

STATE OF WASHINGTON,	)	
	)	
Plaintiff,	)	
	)	
v.	)	No. 19-2-02325-2 SEA
	)	
LLR Inc.; LLR LULAROE Inc.;	)	
LENNON LEASING LLC; MARK A.	)	
STIDHAM; DEANNE S. BRADY	)	
a/k/a DEANNE STIDHAM; AND	)	
JORDAN K. BRADY,	)	
	)	
Defendants.	)	
_____	)	

\*\*\* AWAITING CONFIDENTIAL DESIGNATIONS \*\*\*

VIDEOTAPED DEPOSITION OF MARK A. STIDHAM

December 18, 2019

Reported By: Joanna B. Brown, CSR, RPR, CRR, RMR  
CSR No. 8570

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a/k/a DEANNE STIDHAM; AND	)	
JORDAN K. BRADY,	)	
	)	
Defendants.	)	
_____	)	

Videotaped deposition of MARK A. STIDHAM,  
taken on behalf of the Plaintiff, at 5020 Campus Drive,  
Newport Beach, California, beginning at 9:10 a.m. and  
ending at 5:54 p.m., on Wednesday, December 18, 2019,  
before JOANNA B. BROWN, Certified Shorthand Reporter  
No. 8570, RPR, CRR, RMR.

1 Newport Beach, California; Wednesday, December 18, 2019

2 9:10 a.m.

3

4 (MARK A. STIDHAM,

5 deponent, was sworn and examined

6 and testified as follows:)

7

8 THE VIDEOGRAPHER: Good morning. We are on

9 the record. This is Volume 1 in the videotaped

09:09 10 deposition of Mark Stidham in the matter of State of

11 Washington versus LLR, Inc., et al., Cause

12 No. 19-2-02325-2 SEA, in the State of Washington,

13 King County Superior Court, and was noticed by the

14 plaintiffs.

09:10 15 The time is approximately 9:10 a.m. on the

16 18th day of 2019 December. We are convening at

17 5020 Campus Drive, Newport Beach, California 92660.

18 My name is Craig Ellingson from Buell Realtime

19 Reporting, LLC, located at 1325 Fourth Avenue,

09:10 20 Suite 1840, in Seattle, Washington 98101.

21 Will counsel and all present please identify

22 themselves for the record.

23 MR. KANADA: Joe Kanada from the attorney

24 general's office. With me here today is Tiffany Lee,

09:10 25 and on the phone is Breena Roos.

1 MR. TODARO: Anthony Todaro from DLA Piper on  
2 behalf of the witness and all defendants, and with me  
3 is Bill Floratos, general counsel of LuLaRoe.

4 THE VIDEOGRAPHER: The court reporter may now  
09:10 5 swear in the witness.

6 THE REPORTER: Would you raise your right  
7 hand, please. You do solemnly state, under penalty of  
8 perjury, that the evidence you shall give in this  
9 matter will be the truth, the whole truth, and nothing  
10 but the truth?

11 THE WITNESS: Yes.

12 EXAMINATION

13 BY MR. KANADA:

14 Q Good morning, Mr. Stidham.

09:11 15 A Good morning.

16 Q Can you please state and spell your full legal  
17 name.

18 A Mark Alan Stidham. It's Mark with a K. Alan  
19 is A-l-a-n. Stidham is S-t-i-d-h-a-m.

09:11 20 Q Mr. Stidham, have you been deposed before?

21 A Yes.

22 Q When?

23 A Multiple times.

24 Q When is the last time you were deposed?

09:11 25 A I don't recall the exact date but recently.

1 I had it?

2 Q Either one.

3 A Okay. Yes. My wife knows I'm at a  
4 deposition. And I don't have a specific secretary, but  
09:19 5 my wife knows. And I'm sure I told other people I  
6 wasn't available today because I was going to a  
7 deposition.

8 Q Got it. Did any of those people assist in  
9 preparing you for today?

09:19 10 A No.

11 Q I noticed that you brought a notepad with you  
12 today. Does that contain notes from your meeting with  
13 your attorneys?

14 A No.

09:19 15 Q What's in it?

16 A Notes from -- I don't really know. I like a  
17 notepad whenever I'm doing something. That page isn't  
18 even mine. My wife did that page. It's a notepad I  
19 picked up and brought so that I would have a notepad in  
09:19 20 front of me so if there were things that I wanted to  
21 remember or things that I wanted to just take note of  
22 from this meeting.

23 Q How are you currently employed?

24 A I work for LuLaRoe.

09:20 25 Q And what's your position at LuLaRoe?



1 A I am a co-CEO and president -- co-president.

2 Q So you are co-CEO, and you are co-president?

3 A Yes.

4 Q Who is the other, or others, CEOs or

09:20 5 presidents?

6 A That would be my wife, DeAnne Brady.

7 Q And how long have you had those co-positions?

8 A Since the company was incorporated.

9 Q And when was that?

09:20 10 A I believe that the LLC was incorporated in  
11 January of 2014, but I believe that -- there's the two  
12 companies, and I believe the corporation was  
13 incorporated in early 2015, I believe. I don't know  
14 exactly.

09:21 15 Q Okay. So back up one second. So there was a  
16 corporation in early 2015, and then there's an LLC in  
17 roughly January of 2014?

18 A Yes.

19 Q And is it LuLaRoe Corporation and LuLaRoe,  
09:21 20 LLC?

21 A I believe that they are referred to as  
22 LuLaRoe, LLC, and LLR, Inc.

23 Q And are you the co-CEO of both entities?

24 A Yes.

09:21 25 Q And the co-president of both entities?

1 A Yes.

2 Q And those titles have been the same since both  
3 of those entities came into existence?

4 A To the best of my knowledge. We are a small  
09:22 5 family organization, and so we don't stand on the  
6 formality of titles, and so there -- to the best of my  
7 knowledge, yes.

8 Q And what are your responsibilities and duties  
9 as co-CEO and co-president?

09:22 10 A That's a broad question. All of the  
11 activities that a CEO would do. I oversee the complete  
12 operation of the company, including finance,  
13 production, manufacturing, order fulfillment, basically  
14 all operations.

09:22 15 Q And as between you and your  
16 co-CEO/co-president, do you divide those duties? Divvy  
17 them out? Divide and concur? Hand them out? How does  
18 that work?

19 A There is a division of responsibility, not  
09:23 20 formal, but just in our operations. DeAnne is more  
21 focused on the sales side of the business and the  
22 fashion side, and I'm more focused on the fulfillment  
23 and operations side.

24 Q And how are you compensated for your  
09:23 25 employment for LLR and LuLaRoe?

1 Q And what is his role?

2 A He is the VP of sales.

3 Q Amelia Lyon?

4 A Yes. She is a photographer.

09:35 5 Q Nicole Thompson?

6 A No.

7 Q Jordan Brady?

8 A Yes. I believe Jordan works -- there's some

9 overlap in sales and marketing, but he's in a role

09:35 10 there somewhere.

11 Q Michael Brady?

12 A Yes. Michael is our head of production.

13 Q What does the head of production do?

14 A He is in charge of the production of our

09:35 15 products.

16 Q Got it. Alex Brady?

17 A No.

18 Q Daniella Brady?

19 A No.

09:35 20 Q Austin Stidham?

21 A Yes. Austin is in charge of -- he does

22 compliance and analytics.

23 Q Morgan Stidham?

24 A No.

09:36 25 Q Devon Stidham?

1 THE WITNESS: No.

2 BY MR. KANADA:

3 Q To buy a piece of product directly from the  
4 company would be to join and become an IFR; is that  
11:38 5 right?

6 A That is not correct.

7 Q Can I have the question read back to me.  
8 (The record was read as follows: "To buy  
9 a piece of product directly from the  
11:37 10 company would be to join and become an  
11 IFR; is that right?")

12 THE WITNESS: Oh, okay. I'm sorry. You did  
13 state it correctly. I heard it incorrectly.

14 Yes. In order to buy directly from the  
11:38 15 company, you would have to join and be an IFR. I'm  
16 sorry.

17 BY MR. KANADA:

18 Q And if I understand it correctly, to join as  
19 an IFR, I would sign an agreement and purchase an  
11:38 20 initial onboarding package?

21 A Correct.

22 Q How much does that onboarding package cost  
23 today?

24 A \$499.

11:38 25 Q And how long has it cost \$499?

1 A A couple of months.

2 Q Before then, how much was the onboarding  
3 package?

4 A I believe it was around \$2,500.

11:38 5 Q Roughly what time period was the onboarding  
6 package roughly \$2,500?

7 A I don't know when it started but until a  
8 couple of months ago, and it probably was about a year  
9 that it was at \$2,500.

11:39 10 Q So the 2018 to 2019 time frame?

11 A Probably, yeah.

12 Q Before 2018 to 2019, how much was the  
13 onboarding package?

14 A It was \$5,000.

11:39 15 Q And what time period was it roughly \$5,000?

16 A Probably all of 2016/2017. And, again, I'm  
17 spitballing here, guys.

18 Q Got it. Before 2016, what was the cost of the  
19 onboarding package?

11:40 20 A Earlier, the cost was, like, 2,100.

21 Q And was it 2,100 from LuLaRoe's inception to  
22 roughly 2016?

23 A At LuLaRoe's inception, there was no onboard  
24 package, per se. As the company grew and we needed  
11:40 25 some structure around how things were done, then we

1 developed onboard packages.

2 Q Okay. And when were onboard packages  
3 developed?

4 A I would say probably in 2013/2014.

11:41 5 Q And when they were first created, they were  
6 priced at around \$2,000?

7 A Around 2,000, I believe.

8 Q Who decides on how much to price the  
9 onboarding package?

11:41 10 A The final decision, me.

11 Q Before the decision gets to you, who comes up  
12 with potential changes?

13 A Input mostly from sales and marketing and --  
14 yeah, I would say mostly sales and marketing, a little  
11:41 15 bit out of finance.

16 Q So let's use this most recent change from  
17 2,500 to roughly 499. Was that a recommendation that  
18 sales and marketing brought to you, or did you decide  
19 "I think it should change. Sales and marketing, tell  
11:41 20 me what you think it should be"?

21 A Actually, the latest one was a decision made  
22 by me. I brought it up in an executive meeting to make  
23 sure that everybody -- that we were all in accord with  
24 it, but that entire process was driven by me.

11:42 25 Q And what prompted you to drive that process?

1 software, and then we had to implement that new  
2 software.

3 So IT probably ran Audrey for six to eight  
4 months.

15:15 5 Q And since July 1st, 2017, you've been using  
6 BLESS; is that right?

7 A Since July.

8 Q Since July 2017, LuLaRoe has been using BLESS?

9 A And it was stood up in January. And I was  
15:15 10 sued by CMS, which was the credit card processor, and  
11 got an injunction against me, using a software that  
12 actually worked because -- I don't know why, but we  
13 were forced to -- basically, it was a situation where  
14 we were forced to settle with them so that we could  
15:16 15 actually get a software that would work and fulfill our  
16 functions.

17 Q So it sounds like BLESS has largely made --  
18 so -- withdraw.

19 With BLESS, it sounds like there's no reason  
15:16 20 for IFRs to submit inventory or sales reports because  
21 it's automatic; right?

22 A It's there. Correct.

23 Q Was there a time within the past six months  
24 where IFRs were asked to submit an inventory and sales  
15:16 25 report?

1 Q And where is finance pulling the data that  
2 goes into creating those tax documents?

3 MR. TODARO: Object on lack of foundation.

4 THE WITNESS: I don't know. I would assume  
15:32 5 from our NetSuite accounting.

6 MR. KANADA: Why don't we do one more  
7 document, and then we'll take a quick break.

8 Q What -- what is an Income Disclosure  
9 Statement?

10 MR. TODARO: Object to the form.

11 THE WITNESS: It's a -- I'm not sure. That's  
12 a broad question.

13 MR. KANADA: I'll just hand it to you. That  
14 will be easier.

15:33 15 (Deposition Exhibit 49 was marked for  
16 identification by the reporter, a  
17 copy of which is attached hereto.)

18 MR. TODARO: What number?

19 MR. KANADA: This is Exhibit 49, I believe.  
15:34 20 It's been Bates-stamped WA-AG001175.

21 Q Do you recognize this, Mr. Stidham?

22 A Yes.

23 Q And is it LuLaRoe's 2016 Income Disclosure  
24 Statement?

15:34 25 A Yes.

1 Q And who prepared this?

2 MR. TODARO: If you know.

3 THE WITNESS: I don't know.

4 BY MR. KANADA:

15:34 5 Q Were these prepared in any other years other  
6 than 2016?

7 A I also don't know.

8 Q Do you know where the data came from that was  
9 used to create this?

15:34 10 MR. TODARO: Object to the form.

11 THE WITNESS: Specifically, no.

12 BY MR. KANADA:

13 Q And do you know when -- so this was -- we  
14 pulled this from your website -- from LuLaRoe's  
15:35 15 website. Do you know when it was available on  
16 LuLaRoe's website?

17 A No, I do not.

18 Q Who would be the best person to answer all of  
19 these questions?

15:35 20 A Possibly someone in marketing. Again, I don't  
21 know that anybody would have that knowledge off the top  
22 of their head. So, if you are looking for that  
23 information, they would need to prepare.

24 MR. KANADA: Why don't we take a short break.

15:36 25 MR. TODARO: Sure.

1 THE VIDEOGRAPHER: Off the record. The time  
2 is 3:36 p.m.

3 (Off the record.)

4 (Deposition Exhibit 50 was marked for  
15:36 5 identification by the reporter, a  
6 copy of which is attached hereto.)

7 THE VIDEOGRAPHER: Going back on the record,  
8 the time is 3:49 p.m.

9 BY MR. KANADA:

15:49 10 Q Welcome back, Mr. Stidham. I'm handing you  
11 Exhibit 50. This is a screen shot of a video -- the  
12 first frame of a video we are going to be using  
13 momentarily, and it's a screen capture of a YouTube  
14 video that's publicly available. We will be dealing  
15:50 15 with the video in a moment; but, first, I want to ask  
16 you questions about some of the items on this page.

17 Do you see, in the bottom right corner of the  
18 video frame, it says "Zoom"?

19 A Yes.

15:50 20 Q What is Zoom?

21 A It's a live video-conferencing platform.

22 Q And LuLaRoe has used it in the past to stream  
23 videoconferences; is that right?

24 A Correct.

15:50 25 Q And if you look an inch below DeAnne's right

1 hand, there's a little square icon, and it says  
2 "Webinar Webinars." Is that a LuLaRoe graphic?

3 A I don't know.

4 Q And the title of the video, according to this  
15:51 5 web page, is "Tuesday 10am LuLaRoe Update Webinar -  
6 3.28.17."

7 Earlier, we talked about weekly calls. Was  
8 one of those weekly calls a LuLaRoe update call?

9 A Yes.

15:51 10 Q And does LuLaRoe make those available online  
11 to IFRs?

12 A We do now. Again, I'm not sure that we always  
13 had the technology available to do that.

14 Q And, in fact, were those webinars available to  
15:51 15 anyone, not just IFRs?

16 A I'm not sure who they were available to.

17 Q If you look about an inch below "Zoom," it  
18 says "18,497 watching now."

19 Does this indicate how many people watched the  
15:51 20 Zoom video?

21 MR. TODARO: Objection. Lack of foundation.

22 THE WITNESS: I would assume that that's what  
23 that is.

24 BY MR. KANADA:

15:52 25 Q Okay. There's a screen in front of you, which

1 we are going to use to play portions of this video, and  
2 I am going to ask that Exhibit 51 be designated as the  
3 video file, if that's possible. The video file is  
4 WA-AG-000973.

15:53 5 (Ms. Brady: Good morning. Good morning.)

6 MR. KANADA: Okay. So this is the screen  
7 capture.

8 Q In general, when you presented for the LuLaRoe  
9 update webinars, did you prepare a script in advance?

15:53 10 A No.

11 Q Did you have any outlines or notes?

12 A Sometimes, yes. Sometimes, no.

13 Q Would you generally prepare it with anyone  
14 else before presenting on these weekly calls?

15:53 15 A Occasionally, but not generally.

16 Q And just to confirm for the record, in this  
17 video, that's you and DeAnne Stidham; correct?

18 A Correct.

19 Q And based on the background that's behind you,  
15:54 20 can you tell where you are?

21 A We would be in DeAnne's office.

22 MR. KANADA: Okay. I am going to move the  
23 video to ten minutes and 30 seconds, approximately.

24 (The video was played as follows:

15:54 25 "MR. STIDHAM: This is in the heavens above

1 us, and it's not moving. The next thing that people  
2 are concerned about is this move that we are going to  
3 make to compensation that's based on your sales. Now,  
4 this is very simple. There's several reasons why we  
15:54 5 are doing this. The first one is so that we can  
6 completely align behavior in the company. I've given  
7 this example before. I want to give it again.

8 "If I get paid when you order product and I  
9 call you and tell you that you need to order more  
15:55 10 product, your first response is going to be 'He only  
11 says that because he's going to get paid.' If I get  
12 paid when you sell product and I tell you 'You need to  
13 bulk up your inventory a little bit. You don't have  
14 enough inventory to have a great sale,' all at once,  
15:55 15 you know, 'Well, gee, he doesn't get paid unless I sell  
16 product. So the advice he's giving me must be to  
17 really help me sell product.'

18 "Now, what it does is it aligns the leadership  
19 of the company ...")

15:55 20 BY MR. KANADA:

21 Q Okay. So there are a couple issues discussed  
22 that I would like to ask you questions on. At the  
23 beginning of that clip, you indicated people had  
24 expressed concern about the move to compensation-based  
15:55 25 sales. Do you remember anyone expressing those

1 concerns?

2 A Yes.

3 Q And what -- how did they articulate the  
4 concern, and what did they tell you?

15:56 5 A People are generally afraid of change, and  
6 people were certain that making a change was going to  
7 change everything. And so my objective was to reassure  
8 them that, in reality, nothing really changed. It  
9 was -- it was just aligning the reward system to the  
15:56 10 desired behavior.

11 Q And you address this idea that folks might say  
12 "Mark, he's only saying that because he's going to get  
13 paid." I just want to clarify when in the process  
14 LuLaRoe gets paid.

15:56 15 Before 2017, LuLaRoe got paid by the IFR when  
16 they ordered product; right?

17 A Correct.

18 Q And after 2017, LuLaRoe also got paid when  
19 someone ordered product; correct?

15:57 20 A Correct.

21 Q So that change in the compensation program  
22 didn't actually impact when LuLaRoe was paid?

23 A No.

24 Q I am going to try to move the video to 12  
15:57 25 minutes and -- pardon me. There's a follow-up question

1 I should have mentioned. So you mentioned a few  
2 seconds ago the desired behavior.

3 What would be some examples of undesirable  
4 behavior that you were aware of at that time?

15:57 5 A Undesirable behavior would be people who were  
6 unscrupulous, who were driving people to order for  
7 their own benefit. It would be people not paying close  
8 attention to their inventory levels and ordering more  
9 inventory than they needed and basically not being  
10 driven to order what they needed in order to  
11 successfully service their customers and creating  
12 questions in the leadership.

13 Again, there was a misalignment, and I think I  
14 explained it pretty clearly on the call. There's a  
15:58 15 misalignment between the desired behavior and  
16 communication around that desired behavior.

17 Q Why would someone order inventory that they  
18 don't need?

19 MR. TODARO: Object to the form. Foundation.  
15:58 20 Speculation.

21 THE WITNESS: And I'm just going to say, you  
22 would have to ask them. People are driven by so many  
23 different motives and so many different things.

24 BY MR. KANADA:

15:59 25 Q Are you referring at all to the idea of

1 someone ordering inventory to qualify for bonuses?

2 A That could be one of them.

3 Q Are there other reasons that you can think of?

4 A Social pressure to look like you are

15:59 5 qualifying at a higher rank. Social pressure to

6 respond to your sponsor so that they could get a bigger

7 bonus check. There could be an emotional component of

8 just ordering product because it was pretty and you

9 liked it and you run your business like you run your

15:59 10 own closet. There's thousands of reasons why people

11 could be engaging in behavior that wasn't as productive

12 for their business as they could have been.

13 Q And were you aware at the time of any

14 instances of that happening?

15:59 15 A Specific instances, no, but very aware that it

16 was -- that there was a potential.

17 Q When did you become aware of this potential?

18 A On the day we started the comp plan.

19 Q Have you heard any anecdotes of that

16:00 20 happening?

21 A I can see that some of that may have happened,

22 or I'm not even going to say "may have." I can see

23 that some of that happened by looking at order and

24 sell-through data. Knowing that my sell-through data

16:00 25 wasn't highly accurate, there still was enough of a

1 difference in ordering and sell-through that I was  
2 concerned about it.

3 Q And based -- when, based on the data, did you  
4 become concerned about it?

16:00 5 A Again, I was concerned about it from day one.  
6 You cannot reward Behavior A and anticipate that you  
7 will get Behavior B. Unfortunately, I did not have  
8 access to data to identify the rewards for Behavior B;  
9 so we took the next best thing.

16:01 10 Q And what about the old, previous comp plan,  
11 incentivized, ordering more inventory than one might  
12 need?

13 MR. TODARO: Object to the form.

14 THE WITNESS: Again, I think we just answered  
16:01 15 that, and that is multiple reasons why people would do  
16 that, many of them social pressure, emotional reasons,  
17 poor analysis of your business.

18 BY MR. KANADA:

19 Q Earlier, we talked about how, when DeAnne  
16:01 20 first started, in the early days when she first started  
21 having other people besides DeAnne sell, there wasn't a  
22 comp plan. I think you said 2014 was when the first  
23 comp plan came into existence.

24 Do you have a month estimate as to when the  
16:02 25 first comp plan came into existence?

1           A     So the 5 percent bonus was adapted fairly  
2     early, but the comp plan that became -- that became the  
3     management plan was -- it probably started in early  
4     2014. I remember, on the cruise, having specific  
16:02 5     discussions about it and putting, kind of, discussions  
6     about what was available to us and what did we want to  
7     accomplish and how would -- how would we compensate  
8     those behaviors.

9           Those conversations took place on the cruise,  
16:02 10    which would have been in February. So shortly after  
11    that would have been when the comp plan was instigated.

12          Q     And just to make sure I understand your  
13    analogy with Behavior A and Behavior B correctly,  
14    Behavior A is ordering inventory; right?

16:03 15          A     In this case, we could make that assumption,  
16    yes.

17          Q     Okay. And Behavior B would be selling retail?

18          A     Right.

19          Q     So, in other words, the old incentive plan  
16:03 20    didn't encourage retail sales?

21                 MR. TODARO: Object to the form.

22                 THE WITNESS: I'm sorry. Ask it again.

23    BY MR. KANADA:

24          Q     So, in other words, the old compensation plan  
16:03 25    didn't incentivize retail sales?

1 MR. TODARO: Same objection.

2 THE WITNESS: The specifics of the comp plan  
3 maybe didn't; but all of the language, all of the  
4 education, all of the discussion, the culture,  
16:03 5 everything else pointed to sales. We were always a  
6 sales-based company.

7 BY MR. KANADA:

8 Q And when you say "specifics," what are you  
9 referring to?

16:03 10 A I'm referring to everything around the  
11 business pointed to sales.

12 MR. KANADA: Okay. For the record, I'm going  
13 to start playing at 12:10 of Exhibit 51.

14 (The video was played as follows:

16:04 15 "MR. STIDHAM: ...by integrity. Now, the  
16 second -- there's some other benefits to that, and one  
17 is that it completely -- I'm not going to say  
18 'completely,' but it insulates us from FTC violations.  
19 One of the things that the Federal Trade Commission  
16:04 20 looks at in direct-sales companies is a question 'Is  
21 the product being sold to a consumer, or is this just a  
22 process by which they build a pyramid where people just  
23 keep buying product and none of it gets sold?' We  
24 cannot take the risk of the FTC looking at us and  
16:04 25 saying we are not selling through to the end consumer.

1 Therefore, we need to reward that behavior of selling  
2 through.

3 "A couple of other things, other benefits,  
4 first of all, it takes away anybody that wants to  
16:05 5 say -- I mean, in social media, there's some comments  
6 about this being a pyramid and that we are just pushing  
7 the sales. So I want you --")

8 BY MR. KANADA:

9 Q Okay. So let's address some of those points.  
16:05 10 Why did you tell viewers that the new plan insulates  
11 LuLaRoe from FTC violations?

12 MR. TODARO: Object to the form. Misstates.

13 THE WITNESS: I believe that what I said was  
14 that the FTC looks at compensation plans, and  
16:05 15 compensation plans that pay on ordering from the  
16 company is one of the indicia that the FTC would look  
17 at. And I wanted to make sure that they weren't --  
18 that they -- that they weren't looking at us because of  
19 a piece of a plan that may have appeared to not be in  
16:05 20 alignment with their latest directives. I don't  
21 believe there's law on that. I believe there's  
22 directives and indications from the FTC of what they  
23 look at.

24 And we knew who we were as a company. We knew  
16:06 25 that we were selling millions -- millions and millions

1 MR. KANADA: Okay. I'm going to move to  
2 6 minutes and 57 seconds.

3 (The video was played as follows:

4 "MR. STIDHAM: ...our leadership being paid  
16:21 5 out based on the sales of your organization. Now, when  
6 I announced that program last May, there was some  
7 pushback. We were going to have a closed-inventory  
8 system. There was some pushback because it was going  
9 to create an additional burden in trying to figure out  
16:21 10 how to get product into your system if you were  
11 transferring and buying product from other retailers  
12 and some other things. If there was -- it was just  
13 going to make a complicated system.")

14 BY MR. KANADA:

16:21 15 Q Let me pause this. We are going to keep  
16 playing it, but what is an open versus a closed system?

17 A So a closed inventory would mean that if the  
18 inventory wasn't -- that you would not be able to put  
19 inventory into your system that you would --

16:22 20 We would inject it into your back office when  
21 you ordered, and we would push that inventory into your  
22 back office. And if we didn't put it there, you  
23 couldn't sell it. And so that would allow me greater  
24 visibility over the inventory.

16:22 25 And the retailers came back and said, "We run

1 an independent business, and that's obtrusive, and you  
2 are going to" -- "It doesn't work well for us."

3 And so we went to an open-inventory system,  
4 and the problem with an open-inventory system is it  
16:22 5 exposes me to their fraud. They can say they sold  
6 things they don't even own, that they never owned.  
7 They can just make up a sale. They can just say "Yep,  
8 I sold it." And so I was resistant to it; but given  
9 all of the parameters at the time, we made the decision  
16:22 10 to go with the open system.

11 I figured, do you know what? The ones that  
12 defraud the system, there's going to be some of that  
13 always, and I'm going to rely on the 98 1/2 percent  
14 that don't do it, and I'll let my attorneys deal with  
16:23 15 the ones that do.

16 Q Okay. So does an open system -- is one of the  
17 reasons an IFR wanted an open system was so that they  
18 could swap merchandise amongst themselves and then sell  
19 it?

16:23 20 A Yes.

21 Q Are there other reasons other than the fraud  
22 that they would want an open system?

23 A You know, I don't know what other reasons they  
24 had. I don't recall. I probably knew at that moment.  
16:23 25 We probably had in-depth discussions. I don't recall.

1 Q And you mentioned fraud and people reporting  
2 sales of things they don't actually sell. Why would an  
3 IFR engage in that type of fraud?

4 A To get a bonus check.

16:23 5 Q And what did LLR do to try and verify that  
6 retail sales actually occurred?

7 A We watch. We have -- we have internal  
8 visibility on things that are anomalies, and I'm not  
9 going to tell you what they are on the record because  
16:24 10 we watch and we have indications and we have systems in  
11 place to address those issues.

12 Q And when were those systems put in place?

13 A They continue to be put in place. They are an  
14 ongoing response to the people who cheat and their  
16:24 15 creativity.

16 Q So I understand that they are being -- they  
17 are in place now, but when were they first put in  
18 place?

19 A Right after we implemented this program.

16:24 20 Q And I'll say on a monthly basis, on average,  
21 how many instances of fraudulent retail sales does this  
22 system catch?

23 MR. TODARO: Object to the form.

24 THE WITNESS: You know, again, they are all  
16:25 25 over the map. Some of them are small enough that they

1 DEPOSITION OFFICER'S CERTIFICATE

2 (Civ. Proc. S 2025.520 (e))

3 STATE OF CALIFORNIA )  
4 COUNTY OF ORANGE ) ss.

5

6 I, Joanna B. Brown, hereby certify:

7 I am a duly qualified Certified Shorthand  
8 Reporter, in the State of California, holder of  
9 Certificate No. 8570 issued by the Court Reporters  
10 Board of California and which is in full force and  
11 effect. (Bus. & Prof. S 8016)

12 I am not financially interested in this action  
13 and am not a relative or employee of any attorney of  
14 the parties, or of any of the parties. (Civ. Proc. S  
15 2025.320(a))

16 I am authorized to administer oaths or  
17 affirmations pursuant to California Code of Civil  
18 Procedure Section 2093(b), and prior to being examined,  
19 the deponent was first placed under oath or affirmation  
20 by me. (Civ. Proc. S 2025.320, 2025.540(a))

21 I am the deposition officer that  
22 stenographically recorded the testimony in the  
23 foregoing deposition, and the foregoing transcript is a  
24 true record of the testimony given. (Civ. Proc. S  
25 2025.540(a))

1 I have not, and shall not, offer or provide  
2 any services or products to any party's attorney or  
3 third party who is financing all or part of the action  
4 without first offering same to all parties of their  
5 attorneys attending the deposition and making same  
6 available at the same time to all parties or their  
7 attorneys. (Civ. Proc. S 2025.320(b))

8 I shall not provide any service or product  
9 consisting of the deposition officer's notations or  
10 comments regarding the demeanor of any witness,  
11 attorney, or party present at the deposition to any  
12 party or any party's attorney or third party who is  
13 financing all or part of the action, nor shall I  
14 collect any personal identifying information about the  
15 witness as a service or product to be provided to any  
16 party or third party who is financing all or part of  
17 the action.

18 Dated: January 3, 2020

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CSR No. 8570